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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,119	01/10/2006	John Stuart Goulding	1026-0001	8890
50811	7590	06/26/2006		
O'SHEA, GETZ & KOSAKOWSKI, P.C. 1500 MAIN ST. SUITE 912 SPRINGFIELD, MA 01115			EXAMINER VANterPOOL, LESTER L	
			ART UNIT 3727	PAPER NUMBER

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/564,119

**Applicant(s)**

GOULDING ET AL.

**Examiner**

Lester L. Vanterpool

**Art Unit**

3727

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>January 10, 2006</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 4 – 6 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to claims in the alternative only, and / or, cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 – 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson (U.S. Patent Number 5890640). Thompson discloses the pack (10), which includes the sac (12) (See Figure 1), an internal frame (24) for the sac (12) (See Figure 1), the shoulder harness (10 & 18) and the hip belt (52 & 54) (See Figure 1); wherein the frame (24) includes the pair of spaced flexible rods (26 & 28) positioned one on

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each side of the frame (24) so as to extend down at least the lower part (44 & 46) of the length of each side of the sac (12) (See Figures 1 & 2);

and wherein tensioning means (56 & 58) are secured between each flexible rod (26 & 28) at or adjacent the end of the flexible rod (26 & 28) (See Figure 1), and the adjacent portion of the hip belt (52 & 54) (See Figures 1 & 2); each the tensioning means (56 & 58) are adapted to move the corresponding flexible rod (26 & 28) so as to bow an tension the rod and provide the relatively rigid weight transmitting connection between the rod and the corresponding portion of the hip belt (52 & 54); the arrangement are such that the movement of the flexible rods (26 & 28) tends to lift the frame (24) and the pack (10), decreasing the loading on the shoulder harness (10 & 18) and increasing the loading on the belt (52 & 54) (column 6, lines 51 – 54). See Figures 1 & 2.

Regarding claim 2, Thompson further discloses the frame (24) is the skeleton frame made of rod (34, 64A & 64B) or bars (column 4, lines 47 – 60). See Figure 2.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (U.S. Patent Number 5890640) in view of Parsons (European Patent Number 0518485 B1). Thompson discloses the invention substantially as claimed. Thompson discloses the frame (24) and flexible rods (26 & 28).

However, does not disclose the frame consist of the pair of spaced U-shaped portions inclined at the acute angle to each other and secured together, and spaced apart, by one or more crossbars, the inner legs of the U-shaped portions are secured together by the looped portion, and the outer leg of each U-shaped portion are secured to one of the flexible rods.

Parsons teaches the frame (See Figure 3) consist of the pair of spaced U-shaped portions (26) (See Figure 3) inclined at the angle to each other and secured together, and spaced apart (See Figure 3), by one or more crossbars (23) (See Figure 3), the inner legs of the U-shaped portions are secured together by the looped portion (23) (See Figure 3), and the outer leg of each U-shaped portion are secured to one of the flexible rods (16) (See Figure 3) for the purpose of providing durability.

It would have been obvious to one having ordinary skills at the time the invention was made to make the frame consist of the pair of spaced U-shaped portions inclined at the acute angle to each other and secured together, and spaced apart, by one or more crossbars, the inner legs of the U-shaped portions are secured together by the looped portion, and the outer leg of each U-shaped portion are secured to one of the flexible

rods as taught by Parsons with the pack of Thompson in order to enhance reliability and durability.


### ***Conclusion***

Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester L. Vanterpool whose telephone number is 571-272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
**JES F. PASCUA**  
**PRIMARY EXAMINER**

LLV  
June 22, 2006